

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

LEONARD CARTER, JR.,

Plaintiff,
v. Civil Action No. 3:08CV458

BRYAN WATSON, *et al.*,

Defendants.

MEMORANDUM OPINION

Plaintiff, a Virginia inmate, submitted this civil action and also requested leave to proceed *in forma pauperis*. A prisoner is precluded from proceeding *in forma pauperis*:

[I]f the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Plaintiff had at least three prior actions or appeals dismissed as frivolous, malicious, or for failing to state a claim upon which relief could be granted. *See, e.g., Carter v. Thomas*, 3:00cv735 (E.D. Va. May 3, 2001); *Carter v. Commonwealth*, 3:98cv53 (E.D. Va. Aug. 4, 1998); *Carter Commonwealth*, 3:97cv558 (E.D. Va. Jan. 29, 1998). Plaintiff's complaint did not demonstrate that he is in imminent danger of serious physical harm. Therefore, by Memorandum Order entered on August 7, 2008, the Court denied Plaintiff's request to proceed *in forma pauperis* and directed Plaintiff to pay the full \$350.00 filing fee within eleven (11) days of the date of entry thereof.

More than eleven (11) days have elapsed since the entry of the August 7, 2008 Memorandum Order and Plaintiff has not paid the full \$350.00 filing fee. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall accompany this Memorandum Opinion.

/s/
Richard L. Williams
United States District Judge

Date: AUG 26 2008
Richmond, Virginia